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Cc:

Subject: RE: Client Question

The partnership is TEFRA regardless of the ultimate determination of the status of the trust partner if the trust is listed as a partner on the partnership return. See Treas. Reg. 301.6233-1(a) and 6231(g); Durrett v. Commissioner (10th Cir)(TEFRA status is determined as of beginning of audit, not based on subsequent adjustments/determinations).

The closing agreement does not change this jurisdictional determination. It just renders it moot since we can assess and collect each partner based on each of their respective closing agreements regardless of the partnership's status. I.R.C. 7121, 6224(b); 6231(b)(1)(C) and 6230(a)(2)(A)(ii).

Whether the POA had authority to sign on behalf of a partner is a factual question. Our regulations just say that if the POA was given for other purposes, it won't be assumed to apply for TEFRA purposes as well unless the taxpayer sends a letter saying that it should be given that effect. If the POA was given in the context of a TEFRA proceeding for purposes of representing the partner in the TEFRA proceeding, then no special language is needed.